

House File 2501

H-8486

1 Amend House File 2501 as follows:

2 1. Page 44, by striking lines 17 through 33 and inserting:

3 <Sec. \_\_\_\_\_. 2017 Iowa Acts, chapter 174, section 64, is  
4 amended to read as follows:

5 SEC. 64. SEXUALLY VIOLENT PREDATORS.

6 1. There is appropriated from the general fund of the  
7 state to the department of human services for the fiscal year  
8 beginning July 1, 2018, and ending June 30, 2019, the following  
9 amount, or so much thereof as is necessary, to be used for the  
10 purpose designated:

11 For costs associated with the commitment and treatment of  
12 sexually violent predators in the unit located at the state  
13 mental health institute at Cherokee, including costs of legal  
14 services and other associated costs, including salaries,  
15 support, maintenance, and miscellaneous purposes, and for not  
16 more than the following full-time equivalent positions:

17 .....	\$	<del>4,732,373</del>
18 .....		<u>10,864,747</u>
19 .....	FTEs	<del>112.00</del>
20 .....		<u>132.00</u>

21 2. Unless specifically prohibited by law, if the amount  
22 charged provides for recoupment of at least the entire amount  
23 of direct and indirect costs, the department of human services  
24 may contract with other states to provide care and treatment  
25 of persons placed by the other states at the unit for sexually  
26 violent predators at Cherokee. The moneys received under  
27 such a contract shall be considered to be repayment receipts  
28 and used for the purposes of the appropriation made in this  
29 section.>

30 2. By striking page 79, line 7, through page 85, line 22,  
31 and inserting:

32 <DIVISION \_\_\_\_

33 SEXUAL OFFENSES AND SEX OFFENDERS

34 Sec. \_\_\_\_\_. Section 229A.2, subsection 4, Code 2018, is  
35 amended to read as follows:

1 4. "Discharge" means an unconditional discharge from the  
2 sexually violent predator program. A person released from a  
3 secure facility into a transitional release program or released  
4 with ~~or without~~ supervision is not considered to be discharged.

5 Sec. \_\_\_\_\_. Section 229A.5B, subsection 1, unnumbered  
6 paragraph 1, Code 2018, is amended to read as follows:

7 A person who is detained pursuant to [section 229A.5](#) or is  
8 subject to an order of civil commitment under [this chapter](#)  
9 shall remain in custody unless released by court order or  
10 discharged under [section 229A.8](#) or [229A.10](#). A person who has  
11 been placed in a transitional release program or who is under  
12 release with ~~or without~~ supervision is considered to be in  
13 custody. A person in custody under [this chapter](#) shall not do  
14 any of the following:

15 Sec. \_\_\_\_\_. Section 229A.5C, subsection 4, Code 2018, is  
16 amended to read as follows:

17 4. A person who committed a public offense while in a  
18 transitional release program or on release with ~~or without~~  
19 supervision may be returned to a secure facility operated by  
20 the department of human services upon completion of any term  
21 of confinement that resulted from the commission of the public  
22 offense.

23 Sec. \_\_\_\_\_. Section 229A.6A, subsection 1, paragraph d, Code  
24 2018, is amended to read as follows:

25 d. To a facility for placement or treatment in a  
26 transitional release program or for release with ~~or without~~  
27 supervision. A transport order is not required under this  
28 paragraph.

29 Sec. \_\_\_\_\_. Section 229A.7, subsection 7, Code 2018, is  
30 amended to read as follows:

31 7. The control, care, and treatment of a person determined  
32 to be a sexually violent predator shall be provided at a  
33 facility operated by the department of human services. At all  
34 times prior to placement in a transitional release program  
35 or release with ~~or without~~ supervision, persons committed

1 for control, care, and treatment by the department of human  
2 services pursuant to [this chapter](#) shall be kept in a secure  
3 facility and those patients shall be segregated at all times  
4 from any other patient under the supervision of the department  
5 of human services. A person committed pursuant to [this chapter](#)  
6 to the custody of the department of human services may be kept  
7 in a facility or building separate from any other patient  
8 under the supervision of the department of human services.  
9 The department of human services may enter into a chapter  
10 28E agreement with the department of corrections or other  
11 appropriate agency in this state or another state for the  
12 confinement of patients who have been determined to be sexually  
13 violent predators. Patients who are in the custody of the  
14 director of the department of corrections pursuant to a chapter  
15 28E agreement and who have not been placed in a transitional  
16 release program or released with ~~or without~~ supervision shall  
17 be housed and managed separately from criminal offenders in  
18 the custody of the director of the department of corrections,  
19 and except for occasional instances of supervised incidental  
20 contact, shall be segregated from those offenders.

21 Sec. \_\_\_\_\_. Section 229A.8B, subsection 3, Code 2018, is  
22 amended to read as follows:

23 3. Upon the return of the committed person to a secure  
24 facility, the director of human services or the director's  
25 designee shall notify the court that issued the ex parte order  
26 that the absconder has been returned to a secure facility, and  
27 the court shall set a hearing ~~within five days~~ to determine if  
28 a violation occurred. If a court order was not issued, the  
29 director or the director's designee shall contact the nearest  
30 district court with jurisdiction to set a hearing to determine  
31 whether a violation of the rules or directives occurred. The  
32 court shall schedule a hearing ~~within five days of~~ after  
33 receiving notice that the committed person has been returned  
34 from the transitional release program to a secure facility.

35 Sec. \_\_\_\_\_. Section 229A.9A, Code 2018, is amended to read as

1 follows:

2 **229A.9A Release with ~~or without~~ supervision.**

3 1. In any proceeding under [section 229A.8](#), the court may  
4 order the committed person released with ~~or without~~ supervision  
5 if any of the following apply:

6 a. The attorney general stipulates to the release with ~~or~~  
7 ~~without~~ supervision.

8 b. The court or jury has determined that the person should  
9 be ~~discharged~~ released from the program a secure facility or  
10 a transitional release program, but the court has determined  
11 the person suffers from a mental abnormality and it is in the  
12 best interest of the community to order release with ~~or without~~  
13 supervision before the committed person is discharged.

14 2. If release with ~~or without~~ supervision is ordered, the  
15 department of human services shall prepare within sixty days of  
16 the order of the court a release plan addressing the person's  
17 needs for counseling, medication, community support services,  
18 residential services, vocational services, alcohol or other  
19 drug abuse treatment, sex offender treatment, or any other  
20 treatment or supervision necessary.

21 3. The court shall set a hearing on the release plan  
22 prepared by the department of human services before the  
23 committed person is released from a secure facility or a  
24 transitional release program.

25 4. If the court orders release with supervision, the court  
26 shall order supervision by an agency with jurisdiction that  
27 is familiar with the placement of criminal offenders in the  
28 community. The agency with jurisdiction shall be responsible  
29 for initiating proceedings for violations of the release plan  
30 as provided in [section 229A.9B](#). ~~If the court orders release~~  
31 ~~without supervision, the agency with jurisdiction shall also be~~  
32 ~~responsible for initiating proceedings for any violations of~~  
33 ~~the release plan as provided in [section 229A.9B](#).~~

34 5. A committed person may not petition the court for release  
35 with ~~or without~~ supervision.

1 6. A committed person released with ~~or without~~ supervision  
2 is not considered discharged from civil commitment under this  
3 chapter.

4 7. After being released with ~~or without~~ supervision, the  
5 person may petition the court for discharge as provided in  
6 section 229A.8.

7 8. The court shall retain jurisdiction over the committed  
8 person who has been released with ~~or without~~ supervision until  
9 the person is discharged from the program. The department  
10 of human services or a judicial district department of  
11 correctional services shall not be held liable for any acts  
12 committed by a committed person who has been ordered released  
13 with ~~or without~~ supervision.

14 Sec. \_\_\_\_\_. Section 229A.9B, Code 2018, is amended to read as  
15 follows:

16 **229A.9B Violations of release with ~~or without~~ supervision.**

17 1. If a committed person violates the release plan, the  
18 agency with jurisdiction over the person may request the  
19 ~~district~~ court to issue an emergency ex parte order directing  
20 any law enforcement officer to take the person into custody  
21 so that the person can be returned to a secure facility.  
22 The request for an ex parte order may be made orally or by  
23 telephone, but the original written request or a facsimile copy  
24 of the request shall be filed with the clerk of court no later  
25 than 4:30 p.m. on the next business day the office of the clerk  
26 of court is open.

27 2. If a committed person has absconded in violation of the  
28 conditions of the person's release plan, a presumption arises  
29 that the person poses a risk to public safety. The department  
30 of human services or contracting agency, in cooperation with  
31 local law enforcement agencies, may make a public announcement  
32 about the absconder. The public announcement may include a  
33 description of the committed person, that the committed person  
34 is on release with ~~or without~~ supervision from the sexually  
35 violent predator program, and any other information pertinent

1 to public safety.

2 3. Upon the return of the committed person to a secure  
3 facility, the director of human services or the director's  
4 designee shall notify the court that issued the ex parte  
5 order that the committed person has been returned to a secure  
6 facility, and the court shall set hearing ~~within five days~~ to  
7 determine if a violation occurred. If a court order was not  
8 issued, the director or the director's designee shall contact  
9 the nearest district court with jurisdiction to set a hearing  
10 to determine whether a violation of the conditions of the  
11 release plan occurred. The court shall schedule a hearing  
12 ~~within five days of~~ after receiving notice that the committed  
13 person has been returned to a secure facility.

14 4. At the hearing, the burden shall be upon the attorney  
15 general to show by a preponderance of the evidence that a  
16 violation of the release plan occurred.

17 5. If the court determines a violation occurred, the court  
18 shall receive release recommendations from the department of  
19 human services and either order that the committed person be  
20 returned to release with ~~or without~~ supervision or placed  
21 in a transitional release program, or be confined in a  
22 secure facility. The court may impose further conditions  
23 upon the committed person if returned to release with ~~or~~  
24 ~~without~~ supervision or placed in the transitional release  
25 program. If the court determines no violation occurred, the  
26 committed person shall be returned to release with ~~or without~~  
27 supervision.

28 Sec. \_\_\_\_\_. Section 232.68, subsection 2, paragraph a,  
29 subparagraph (3), Code 2018, is amended to read as follows:

30 (3) The commission of a sexual offense with or to a child  
31 pursuant to [chapter 709, section 726.2](#), or section 728.12,  
32 subsection 1, as a result of the acts or omissions of the  
33 person responsible for the care of the child or of a person who  
34 is fourteen years of age or older and resides in a home with  
35 the child. Notwithstanding [section 702.5](#), the commission of

1 a sexual offense under this subparagraph includes any sexual  
2 offense referred to in this subparagraph with or to a person  
3 under the age of eighteen years.

4 Sec. \_\_\_\_\_. Section 232.68, subsection 2, paragraph a,  
5 subparagraph (9), Code 2018, is amended to read as follows:

6 (9) (a) ~~Knowingly~~ A person who is responsible for the  
7 care of a child knowingly allowing a person another person  
8 custody or of, control of over, or unsupervised access to a  
9 child or minor child under the age of fourteen or a child with  
10 a physical or mental disability, after knowing the person  
11 other person is required to register or is on the sex offender  
12 registry under chapter 692A for a violation of section 726.6.

13 (b) This subparagraph does not apply in any of the following  
14 circumstances:

15 (i) A child living with a parent or guardian who is a sex  
16 offender required to register or on the sex offender registry  
17 under chapter 692A.

18 (ii) A child living with a parent or guardian who is married  
19 to and living with a sex offender required to register or on  
20 the sex offender registry under chapter 692A.

21 (iii) A child who is a sex offender required to register or  
22 on the sex offender registry under chapter 692A who is living  
23 with the child's parent, guardian, or foster parent and is also  
24 living with the child to whom access was allowed.

25 (c) For purposes of this subparagraph, "control over" means  
26 any of the following:

27 (i) A person who has accepted, undertaken, or assumed  
28 supervision of a child from the parent or guardian of the  
29 child.

30 (ii) A person who has undertaken or assumed temporary  
31 supervision of a child without explicit consent from the parent  
32 or guardian of the child.

33 Sec. \_\_\_\_\_. Section 901A.2, subsection 6, Code 2018, is  
34 amended to read as follows:

35 6. A person who has been placed in a transitional release

1 program, released with ~~or without~~ supervision, or discharged  
2 pursuant to [chapter 229A](#), and who is subsequently convicted of  
3 a sexually predatory offense or a sexually violent offense,  
4 shall be sentenced to life in prison on the same terms as  
5 a class "A" felon under [section 902.1](#), notwithstanding any  
6 other provision of the Code to the contrary. The terms and  
7 conditions applicable to sentences for class "A" felons under  
8 chapters 901 through 909 shall apply to persons sentenced under  
9 this subsection. However, if the person commits a sexually  
10 violent offense which is a misdemeanor offense under chapter  
11 709, the person shall be sentenced to life in prison, with  
12 eligibility for parole as provided in [chapter 906](#).>

13 3. By striking page 89, line 31, through page 90, line 15,  
14 and inserting:

15 <DIVISION \_\_\_\_

16 GERIATRIC PATIENT HOUSING REVIEW

17 Sec. \_\_\_\_ . GERIATRIC PATIENT HOUSING REVIEW.

18 1. During the 2018 legislative interim, the department on  
19 aging and the departments of human services, inspections and  
20 appeals, and corrections, cooperatively, shall review issues  
21 and develop policy recommendations relating to housing for  
22 geriatric persons, including geriatric individuals who are  
23 registered on the sex offender registry or who are sexually  
24 aggressive. The review shall address all aspects of the issue  
25 including the feasibility of utilizing facilities located  
26 at Mount Pleasant, Clarinda, or other vacant, state-owned  
27 facilities to care for such geriatric persons; related  
28 workforce recruitment and training; requirements that a  
29 facility must meet in order to receive Medicaid reimbursement;  
30 and any other information or issues deemed appropriate by the  
31 agencies.

32 2. The agencies shall submit a joint report with  
33 recommendations to the governor and general assembly by  
34 December 15, 2018.>

35 4. By renumbering as necessary.

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HUNTER of Polk